

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:20-cr-183

v.

Hon. Robert J. Jonker
Chief U.S. District Judge

ADAM DEAN FOX,
BARRY GORDON CROFT, JR.,
DANIEL JOSEPH HARRIS, and
BRANDON MICHAEL-RAY CASERTA,

Defendants.

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PROPOSED PRELIMINARY JURY INSTRUCTION

The United States of America proposes the following proposed preliminary jury instruction for the Court's consideration. The United States provided this proposal to counsel for Defendants. Counsel for Croft and Harris are in agreement with the exception of the definition of "destructive device," which they will address separately. Counsel for Fox agreed with a portion of the proposed instructions but will file a separate pleading with language relating to several specific disagreements. Counsel for Caserta has not provided a response.

Each of the defendants are charged with conspiracy to commit kidnapping. This offense has three elements: (1) first, that two or more persons conspired, or agreed, to commit the crime of kidnapping; (2) second, that the defendants knowingly and voluntarily joined the conspiracy; and (3) third, that a member of the conspiracy did one of the overt acts described in the superseding indictment for the purpose of

advancing or helping the conspiracy. As used in this instruction, the crime of kidnapping is defined as the intentional seizing, confining, abducting, or carrying away of a person, using an unlawful physical or mental restraint for an appreciable period against the person's will and with a willful intent to confine the person; where the kidnapped person is transported in interstate commerce, or the offender traveled in interstate commerce, or used a means, facility, or instrumentality of interstate commerce in committing or in furtherance of the charged offense; and the kidnapping is done for ransom, reward, or otherwise. The government alleges that the conspiracy took place between from at least on or about June 6, 2020, through October 7, 2020, in the Southern Division of the Western District of Michigan.

Defendant Adam Dean Fox, Barry Gordon Croft, Jr., and Daniel Joseph Harris are also charged with Conspiracy to Use a Weapon of Mass Destruction. This offense has three elements: (1) first, that two or more persons conspired, or agreed, to commit the crime of use of a weapon of mass destruction; (2) second, that the defendants knowingly and voluntarily joined the conspiracy; and (3) third, that a member of the conspiracy did one of the overt acts described in the superseding indictment for the purpose of advancing or helping the conspiracy. As used in this instruction, the crime of using a weapon of mass destruction is defined as the intentional use, without lawful authority, of an explosive or incendiary bomb, explosive or incendiary grenade, or similar explosive or incendiary device that was designed or redesigned for use as a weapon; against any person or property within the United States, using the mail or any facility of interstate commerce in furtherance of the offense. The government

alleges that the conspiracy took place between from at least on or about May 1, 2020, through October 7, 2020, in the Southern Division of the Western District of Michigan.

Defendants Barry Gordon Croft, Jr. and Daniel Joseph Harris are also charged with Possession of an Unregistered Destructive Device. There are three elements of this offense: (1) first, that the defendants knowingly possessed a destructive device, which includes an explosive or incendiary bomb, explosive or incendiary grenade, or similar explosive or incendiary device that was designed or redesigned for use as a weapon; (2) second, the defendants knew the object was a destructive device; and (3) third, the destructive device was not registered to the defendants in the National Firearms Registration and Transfer Record. The government alleges that this took place on or about September 13, 2020, in Lake County in the Western District of Michigan and elsewhere.

Defendant Daniel Joseph Harris is also charged with Possession of an Unregistered Short-Barreled Rifle. There are three elements of this offense: (1) first, that the defendant knowingly possessed a short-barreled rifle, which is a rifle having a barrel or barrels of less than 16 inches in length; (2) second, the defendant knew the barrel was less than 16 inches in length; and (3) third, the short-barreled rifle was not registered to the defendant in the National Firearms Registration and Transfer Record. The government alleges that this took place between on or about July 10, 2020 and on or about September 13, 2020, in the Southern Division of the Western District of Michigan and elsewhere.

The defendants have pled not guilty to each of the charges and are presumed innocent. You must not assume that they are guilty because they have been charged. I will give you additional instructions throughout the trial and before your deliberations.

Respectfully submitted,

ANDREW BYERLY BIRGE
United States Attorney

Date: February 17, 2022

/s/ Jonathan Roth
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